

The Senate Health and Human Services Committee offered the following substitute to HB 1314:

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 8 of Title 30 of the Official Code of Georgia Annotated, relating to the Georgia Council on Developmental Disabilities, so as to provide for the comprehensive regulation of individual development accounts; to provide for definitions; to provide for procedures, conditions, and limitations with respect to the creation and operation of such accounts; to provide for powers, duties, and authority of the Georgia Council on Developmental Disabilities; to provide for powers, duties, and authority of certain fiduciary organizations; to amend Code Section 49-4-183 of the Official Code of Georgia Annotated, relating to administration of article by the Department of Human Services, so as to add to uses for individual development accounts; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 8 of Title 30 of the Official Code of Georgia Annotated, relating to the Georgia Council on Developmental Disabilities, is amended by designating the current provisions as Article 1 and adding a new article to read as follows:

"ARTICLE 2

30-8-20.

As used in this article, the term;

(1) 'Account holder' means the person who is the owner of an individual development account.

(2) 'Assistive technology' means any item, piece of equipment, or product system, whether acquired commercially, off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

(3) 'Community based organization' means any nonprofit or charitable association that is approved to implement the individual development account reserve fund.

(4) 'Emergency' includes making payments for necessary medical expenses, to avoid eviction of the account holder from the account holder's residence, and for necessary living expenses following a loss of employment.

(5) 'Federal poverty level' means poverty level as defined annually by the federal Office of Management and Budget.

(6) 'Fiduciary organization' means a nonprofit, fundraising organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, as amended, or a community development financial institution or community development credit union. Nothing in this paragraph shall be construed as preventing a fiduciary organization from cooperating with a financial institutional or for profit entity to carry out the purposes of this article.

(7) 'Financial institution' means a bank, trust company, savings bank, building and loan association, savings and loan company or association, or credit union authorized to do business in this state.

(8) 'Individual development account' means a contract between an account holder and a fiduciary organization for the deposit of savings by an account holder at a financial institution and the deposit by the fiduciary organization of matching funds into a separate reserve account at a financial institution to allow the account holder to accumulate assets for use toward achieving any of the specific purposes enumerated in Code Section 37-8-22.

(9) 'Lower income household' means a household having an income equal to or less than 80 percent of the median household income for the area as determined by the Department of Behavioral Health and Developmental Disabilities. In making the determination, the Department of Behavioral Health and Developmental Disabilities shall give consideration to any data on area household income published by the United States Department of Housing and Urban Development.

(10) 'Matching funds' means the moneys contributed from an individual development account reserve fund to an individual development account by a community based organization at a one-to-one ratio up to a five-to-one match.

30-8-21.

(a) A person whose household income is less than or equal to 300 percent of the federal poverty level may open an individual development account for the purposes set forth in Code Section 30-8-22.

(b) A person who qualifies to become an account holder may enter into an agreement with a fiduciary organization for the establishment of an individual development account.

(c) A person applying to establish an individual development account shall enter into an individual agreement developed by the person and the fiduciary organization. The agreement shall provide for the amount of regular savings deposits, the matching funds rate, the asset goal, and the training classes and financial counseling the individual will attend.

30-8-22.

(a) A person may establish an individual development account only for one or more of the following purposes:

(1) The acquisition of postsecondary education or job training;

(2) The purchase of a primary residence. In addition to payment on the purchase price of the residence, individual development account moneys may be used to pay any usual or reasonable settlement, financing, or other closing costs. The account holder shall not have owned or held any interest in a residence during the three years prior to making the purchase. However, this three-year period shall not apply to displaced homemakers or other individuals who have lost home ownership as a result of divorce;

(3) Costs for major repairs or improvement to a primary residence;

(4) The capitalization of a small business. Individual development account moneys may be used for capital, plant, equipment, and inventory expenses or for working capital pursuant to a business plan. The business plan shall be approved by a financial institution, nonprofit microenterprise program, or other qualified agent demonstrating business expertise and shall be approved by the fiduciary organization. The business plan shall include a description of the services or goods to be sold, a marketing plan, and projected financial statements; and

(5) The purchase of assistive technology.

(b)(1) If an emergency occurs, an account holder may withdraw all or part of the account holder's deposits to an individual development account for a purpose not described in subsection (a) of this Code section with the approval of the fiduciary organization.

(2) The account holder shall reimburse the individual development account for the amount withdrawn under this subsection within 12 months after the date of such withdrawal. Failure of an account holder to make a timely reimbursement to the individual development account shall be grounds for removing the account holder from the individual development account program. Until the reimbursement has been made in full, an account holder shall not withdraw any matching funds or accrued interest on matching funds from the individual development account.

(c) If an account holder withdraws moneys from an individual development account for other than an approved purpose, the fiduciary organization may remove the account holder from the program.

(d) If an account holder moves from the area where the program is conducted or is otherwise unable to continue in the program, the fiduciary organization may remove the account holder from the program.

(e) If an account holder is removed from the program under subsection (b), (c), or (d) of the Code section, all matching funds accrued and the interest earned on matching funds shall revert to the fiduciary organization. The fiduciary organization shall use the reverted funds as a source of matching funds for other individual development accounts.

(f) An individual shall only contribute to an individual development account such amounts as are derived from earned income, child support payments, Social Security Supplemental Income disability payments, community service under Temporary Assistance for Needy Families, SI benefits, an Americorps stipend, or a job training stipend.

30-8-23.

The total amount paid into an individual development account during its existence, including amounts from funds, matching funds, and interest or investment earnings, shall not exceed \$60,000.00.

30-8-24.

The Georgia Council on Developmental Disabilities may select fiduciary organizations through competitive processes. In making the selections, the Georgia Council on Developmental Disabilities shall consider factors including, but not limited to:

(1) The ability of the fiduciary organization to implement and administer the individual development account program, including the ability to verify account holder eligibility, certify that matching funds are used only for approved purposes, and exercise general fiscal accountability;

(2) The capacity of the fiduciary organization to provide or raise matching funds for the deposits of account holders;

(3) The capacity of the fiduciary organization to provide financial counseling, at least 12 hours of economic education and training specific to the assets the individuals will be purchasing, and other related services to account holders;

(4) The links that the fiduciary organization has to other activities and programs designed to increase the independence of this state's lower income households through education and training, home ownership, and small business development; and

(5) The feasibility of the fiduciary organization's program design, including match rates and regular savings amounts, to lead to asset purchase.

30-8-25.

(a) Subject to the Georgia Council on Developmental Disabilities rules, a fiduciary organization shall have sole authority over and responsibility for the administration of individual development accounts. The responsibility of the fiduciary organization shall extend to all aspects of the individual development account program, including marketing to participants, soliciting matching contributions, counseling account holders, providing financial literacy education, and conducting required verification and compliance activities. The fiduciary organization may establish program provisions as the organization believes necessary to ensure account holder compliance with this article. Notwithstanding any provisions of this article to the contrary, a fiduciary organization may establish income limitations for account holders that are lower than the income limitations otherwise established by this article.

(b) A fiduciary organization may act in partnership with other entities, including businesses, government agencies, nonprofit organizations, community development corporations, community action programs, housing authorities, and congregations to assist in the fulfillment of fiduciary organization responsibilities under this article.

(c) A fiduciary organization may use a reasonable portion of moneys allocated to the individual development account program for administration, operation, and evaluation purposes.

(d) A fiduciary organization selected to administer moneys directed by the state to individual development account purposes or receiving tax deductible contributions shall provide the Georgia Council on Developmental Disabilities with an annual report of the fiduciary organization's individual development account program activity. The report shall be filed no later than 90 days after the end of the fiscal year of the fiduciary organization. The report shall include, but shall not be limited to:

(1) The number of individual development accounts administered by the fiduciary organization;

(2) The amount of deposits and matching funds for each individual development account;

(3) The purpose of each individual development account;

(4) The number of withdrawals made; and

(5) Any other information the Georgia Council on Developmental Disabilities may require for the purpose of making a return on investment analysis.

(e) The Georgia Council on Developmental Disabilities may make all reasonable and necessary rules to ensure fiduciary organization compliance with this article.

30-8-26.

Financial institutions holding individual development accounts shall at a minimum:

(1) Keep the individual development account in the name of the account holder;

(2) Permit deposits to be made in the individual development account;

(3) Require the individual development account to earn a market rate of interest; and

(4) Permit the account holder, after obtaining the written authorization of the fiduciary organization, to withdraw money from the individual development account for any of the permissible uses.

30-8-27.

Funds deposited in individual development accounts shall not be counted as income, assets, or resources of the account holder for the purpose of determining financial eligibility for assistance or services pursuant to any federal, federally assisted, state, or municipal program based on need."

SECTION 3.

Code Section 49-4-183 of the Official Code of Georgia Annotated, relating to administration of article by the Department of Human Services, is amended by revising paragraph (11) of subsection (b) as follows:

"(11) The establishment and maintenance of individual development accounts. The funds in such accounts may be used for postsecondary educational expenses, the purchase of a first home, assistive technology, or business capitalization. The funds in such accounts shall not be considered in determining eligibility for cash assistance pursuant to 42 U.S.C. Section 604(h)."

SECTION 4.

This Act shall become effective on July 1, 2010.

SECTION 5.

All laws and parts of laws in conflict with this Act are repealed.